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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

deltaventure GmbH, a foreign
corporation,

Plaintiff,

v.

Pay.io, an Internet domain name, and
John Doe,

Defendant.

Case No. _____

VERIFIED COMPLAINT

JURY TRIAL DEMANDED

Plaintiff deltaventure GmbH (“deltaventure” or “Plaintiff”), by and through its undersigned attorneys, for his Complaint alleges as follows:

NATURE OF THE SUIT

1. Plaintiff is seeking to recover its valuable domain name and seeks (1) a Declaratory Judgment as to the ownership of the Defendant Domain Name, (2) asserts in rem claims under the Anti-cybersquatting Consumer Protection Act, 15 U.S.C. § 1125(d), under 28 U.S.C. § 1655, and Arizona common law (3) Tortious Interference with Contract and Business Expectancy (4) Trespass to Chattels, Conversion and Civil Theft, Computer Trespass and Conversion, and Quiet Title and *in personam* claims under (5)

1 the Computer Fraud and Abuse Act, 18 U.S.C. § 1030, (6) the Electronic
2 Communications Privacy Act, 18 U.S.C. §§ 2701, 2707, and Arizona common law,
3 arising from the unauthorized access to Plaintiff's secured computer account and the
4 unauthorized transfer and theft of the pay.io domain name (the "Defendant Domain
5 Name").

6 2. Plaintiff seeks injunctive and other equitable relief as a result of the actions
7 of a person of unknown identity who gained unauthorized access to Plaintiff's domain
8 name management account on a protected computer, transferred control of the Defendant
9 Domain Name from Plaintiff's account, and thereby disabled Plaintiff's control of the
10 Defendant Domain Name causing irreparable injury to Plaintiff.

11 **JURISDICTION AND VENUE**

12 3. This action arises out of Doe's violation of the Anti-cybersquatting
13 Consumer Protection Act, 15 U.S.C. § 1125(d) and the Computer Fraud and Abuse Act,
14 18 U.S.C. § 1030, the Electronic Communications Privacy Act, 18 U.S.C. §§ 2701, 2707,
15 and related claims under the common law of Arizona.

16 4. This Court has original jurisdiction pursuant to 15 U.S.C. § 1121(a) and 28
17 U.S.C. §§ 1331 and 1338(a) and has in rem jurisdiction over the Defendant Domain
18 Name pursuant to 15 U.S.C. § 1125(d)(2)(A) as the registry for the Defendant Domain
19 Name, Namecheap, is located within this judicial district. The Court has subject matter
20 jurisdiction over this action pursuant to 28 U.S.C. §1331 because this action arises out of
21 Defendants' violation of the Federal Computer Fraud and Abuse Act (18 U.S.C. § 1030),
22 Electronic Communications Privacy Act (18 U.S.C. § 2701), and the Lanham Act (15
23 U.S.C. §§ 1114, 1125). The Court also has subject matter jurisdiction over deltaventure's
24 claims for trespass to chattels, conversion, and intentional interference with contractual
25 relationships pursuant to 28 U.S.C. § 1367.

26 5. Venue is proper in this district pursuant to 15 U.S.C. § 1125(d)(2)(C) as the
27 subject registry, Namecheap has its principal place of business in this judicial district.
28

1 **PARTIES**

2 13. The Plaintiff, deltaventure GmbH (hereinafter “deltaventure”) is a limited
3 liability company registered in Germany with a primary address of Mergenthalerallee 10-
4 12, 65760 Eschborn, Germany, previously Neuer Wall, 20354 Hamburg, Germany.
5 deltaventure was, and is, the rightful owner of the Defendant Domain Name.

6 14. The Defendant pay.io is a .COM tld (top level domain) which is controlled
7 by Namecheap, Inc. (“Namecheap”) which has a primary address of 4600 East
8 Washington Street, Suite 305, Phoenix, AZ 85034 which is within this Court’s judicial
9 district.

10 15. Defendant John Doe (Hereinafter “Doe”) is a person of unknown identity
11 who gained unauthorized access to deltaventure’s protected domain name management
12 account and, without consent or authority, transferred control of Defendant Domain
13 Name away from deltaventure.

14 **FACTUAL BACKGROUND**

15 16. The Plaintiff acquired the Defendant Domain Name on June 4, 2012 for
16 €5,000 has since then been the sole legal registrant of the Defendant Domain Name. See
17 Exhibit A.

18 17. On May 21, 2013, April 22, 2014, April 27, 2015 and April 24, 2016,
19 Plaintiff renewed the Defendant Domain Name. See Exhibit B.

20 18. As the time of its last renewal on April 24, 2016, Plaintiff extended its
21 ownership of the Defendant Domain Name for a period of five (5) years, giving Plaintiff
22 sole and exclusive ownership of the domain name through at least April 24, 2021.

23 19. The Plaintiff did not sell or transfer the Defendant Domain Name to Doe or
24 any other third party.

25 20. On or about July 24, 2016, Defendant Domain Name was transferred to Doe.

27. Defendant Doe's actions are in violation of these aforementioned rights of Plaintiff.

29. Defendant's actions have taken control of the Defendant Domain Name from Plaintiff without authorization or permission.

Count II
Anticybersquatting Consumer Protection Act (ACPA)
15 U.S.C. § 1125(d)

Count III

Violation of the Computer Fraud and Abuse Act 18 U.S.C. § 1030

39. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full.

40. Defendant Doe knowingly and intentionally accessed the Plaintiff's hosting account and registrar account on protected computers exceeding his authorization and thereby obtained and used information from the protected computer systems in multiple transactions involving interstate and foreign communication in violation of 18 U.S.C. § 1030(a)(2)(c).

41. Defendant Doe knowingly, and with intent to take Plaintiff's revenue and business, accessed the Plaintiff's email system on a protected computer exceeding his authority and used the access to transfer all of Plaintiff's assets to himself in violation of 18 U.S.C. § 1030(a)(4).

42. Defendant Doe's conduct complained of herein caused the registration records maintained by Namecheap on a protected computer system in this District to be altered transferring control of the Defendant Domain Name from the Plaintiff to Defendant Doe in violation of the Plaintiff's rights.

43. Defendant Doe intentionally accessed the Plaintiff's registrar without authorization and as a result of such conduct caused damage and loss in violation of 18 U.S.C. § 1030(a)(5)(c).

44. The Plaintiff has suffered damages as a result of the conduct complained of and such conduct has caused a loss to the Plaintiff aggregating to at least \$100,000 that being the value of the Defendant Domain Name.

45. As a direct result of the actions complained of, the Plaintiff has suffered, and continues to suffer, irreparable harm for which the Plaintiff has no adequate remedy at law and which will continue unless enjoined.

Count IV

Tortious Interference with Contract and Business Expectancy

46. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full.

47. The Plaintiff had a valid contractual relationship or business expectancy with the registrar for the Defendant Domain Name before the Defendant Domain Name was stolen.

48. Upon information and belief, Defendant had knowledge of such relationship or expectancy.

49. Defendant intentionally interference in such relationship or expectancy, causing a breach or termination of the relationship or expectancy by unlawfully taking control of the Defendant Domain Name, interfering with Plaintiff's lawful contract rights to the Defendant Domain Name.

50. As a result of the Defendant's acts, the Plaintiff has been damaged and will continue to be damaged

51. The Plaintiff requests that this Court declare Defendant liable for its past and any future losses in association with the registration and hosting service contract.

Count V

Conversion and Civil Theft

52. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full.

53. Plaintiff has property rights in the Defendant Domain Name.

54. Defendant Doe has intentionally exercised dominion or control over the Defendant Domain Name which so seriously interferes with the right of Plaintiff to control it that Defendant Doe may justly be required to pay the other the full value of the chattel.

58. The Plaintiff has suffered damages, including the loss of the Defendant Domain Name, as the result of Defendant Doe's conduct and is entitled to injunctive relief, actual, statutory and/or punitive damages as well as attorney's fees.

64. Defendant Doe is wrongfully exerting dominion and possession over the Plaintiff's property in denial of his rights and is intermeddling with the Plaintiff's property rights.

66. The Plaintiff has suffered damages, including the loss of the Defendant Domain Name, as the result of Defendant Doe's conduct and is entitled to injunctive relief, actual, statutory and/or punitive damages as well as attorney's fees.

67. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full.

68. On information and belief, Defendant Doe intentionally, accessed without authorization, electronic communications sent by the domain name registrar to deltaventure seeking deltaventure's approval for the transfer of the Defendant Domain Name.

69. On information and belief, Defendant Doe obtained such electronic communications and/or prevented deltaventure's authorized access to such electronic communications while the communications were in electronic storage.

70. Defendant Doe engaged in such actions with a knowing and/or intentional state of mind, and such actions constitute a violation of the Electronic Communications Privacy Act, 18 U.S.C. §§ 2701, 2707.

71. The Plaintiff has suffered damages including the loss of the Defendant Domain Name as a result of the conduct complained of herein and is entitled to injunctive relief, actual, statutory, and/or punitive damages, and attorney's fees under the Electronic Communications Privacy Act.

72. To the extent that Defendant Doe has subsequently transferred the Defendant Domain Name to a person or persons other than Defendant Doe, such other person's wrongful exercise of dominion and control over the Defendant Domain Name deprives

the Plaintiff of use and control of the Defendant Domain Name in violation of the Plaintiff's rights in and to the Defendant Domain Name.

Count VIII
Quiet Title

73. The Plaintiff repeats and realleges the previous paragraphs as if set forth in full.

74. The Plaintiff has valid legal and equitable title to the Defendant Domain Name based on his purchase and registration of the Defendant Domain Name.

75. The Defendant Domain Name was stolen from the Plaintiff and no subsequent registrant may acquire valid title to the domain name – whether or not any such registrant claims to be a bone fide purchaser.

76. Defendant Doe has, through his control of the Defendant Domain Name, asserted a claim that impedes the Plaintiff's ownership and control of the Defendant Domain Name and constitutes a cloud on the Plaintiff's title to the Defendant Domain Name.

WHEREFORE, Plaintiff respectfully prays for the following relief:

A. That judgment be entered in favor of the Plaintiff on his *in rem* claims under the Anti-cybersquatting Consumer Protection Act, 28 U.S.C. § 1655, and for quiet title, Trespass to Chattels, Conversion and Civil Theft, and for Tortious Interference with Contract and Business Expectancy against the res Defendant pay.io.

B. That judgment be entered in favor of the Plaintiff on its *in personam* claims under the Computer Fraud and Abuse Act, the Electronic Communications Privacy Act, and Arizona common law against Defendant Doe.

C. That the Court order the Defendant Domain Name be returned to the Plaintiff through Namecheap, Inc.'s transfer of the domain name from the current domain name registrar to deltaventure's registrar of choice, Namecheap (if not already at

1 Namecheap) and to change the registrant back to deltaventure. Enter an order
2 declaring that deltaventure is the only entity with any rights to the control
3 controlling the Defendant Domain Name pay.io;

4 D. Enter an order declaring that Defendant Doe does not have any rights to the
5 Defendant Domain Name pay.io;

6 E. Enter an order directing that the Defendant Domain Name pay.io be promptly
7 transferred to the Plaintiff;

8 F. Enter an Order directing Namecheap to promptly return control of the Defendant
9 Domain Name, pay.io, to the Plaintiff and the registrar as directed by counsel for
10 the Plaintiff;

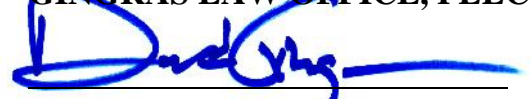
11 G. Award the Plaintiff his fees and costs, including reasonable attorney fees, in
12 connection with this action.

13 H. That the Court order an award of actual, statutory, and/or punitive damages, costs
14 and reasonable attorney's fees; and

15 I. That the Court order an award to deltaventure of such other and further relief as
16 the Court may deem just and proper.

17
18 DATED: February 19, 2020.

19 GINGRAS LAW OFFICE, PLLC

20 
21 David S. Gingras, Esq.

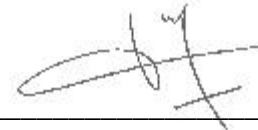
22 Stevan Lieberman, Esq.
23 (Pro Hac Vice pending)
24 Greenberg & Lieberman, LLC
25 1775 Eye Street, Suite 1150
26 Washington, D.C. 20006

27 Attorneys for Plaintiff
28

VERIFICATION

I, André Boeder declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that I am André Boeder and am the Managing Director of deltaventure GmbH, the original owner of the Defendant Domain Name listed above and the facts contained in the foregoing verified complaint are true and correct to the best of my knowledge, information and belief.

Executed On: January 27, 2020



André Boeder

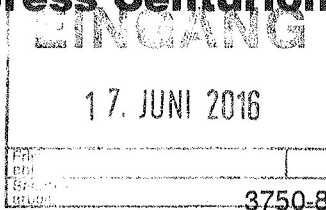
Exhibit A



American Express Centurion Plus Card

Monatsabrechnung

Seite 1 von 2

Angefertigt für
ANDRE BOEDERIhre Karten-Nr. 3750-8-
Datum 23.05.16

Saldo der letzten Abrechnung in EUR	Gutschriften in EUR	Neue Belastungen in EUR	Neuer Saldo in EUR	Zu zahlender Betrag in EUR
5.096,07	5.096,07	4.404,30	4.404,30	4.404,30

Vielen Dank für den Einsatz Ihrer American Express Karte. Wir werden den auf der Abrechnung angegebenen Betrag frühestens 5 Tage nach dem Datum der Abrechnung per SEPA Lastschrift von dem von Ihnen benannten Konto abbuchen, soweit nicht anders mit Ihnen vereinbart.

Abrechnungszeitraum vom 24.04.16 bis 23.05.16

Umsatz vom	Buchungsdatum	Details	Betrag in Fremdwährung	Betrag EUR
27.04	27.04	ZAHLLUNG/ÜBERWEISUNG ERHALTEN BESTEN DANK		5.096,07 CR

Saldo des laufenden Monats für ANDRE BOEDER

Karten-Nr. 3750-879647-91002

24.04	25.04	IDOTZNET	4152948890	299,99 US Dollars	272,35
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Referenzwechsellkurs 1.1235 + Entgelt in EUR 5,34

American Express Services Europe Limited, Zweigniederlassung Frankfurt am Main, Theodor-Heuss-Allee 112, 60486 Frankfurt a. M., HRB 57783
American Express Services Europe Limited hält eine Erlaubnis der Financial Conduct Authority mit Sitz im Vereinigten Königreich zur
Erbringung von Zahlungsdiensten gemäß der Vorschriften über die Erbringung von Zahlungsdiensten 2009; Referenznummer J415532].

Ihre Karten-Nr.
3750-8-

ID 01 021806 56082B44 A**SNGLP



ANDRE BOEDER
DELTAVENTURE GMBH
MERGENTHALER ALLEE 10-12
65760 ESCHBORN
GERMANY

Zahlungsart und Kontakt

Lastschrift

Wenn Sie am Lastschriftverfahren teilnehmen wird der Rechnungsbetrag von Ihrem Bankkonto abgebucht.

Zahlung per Überweisung

Bankverbindung:
Deutsche Bank AG
IBAN DE05500700100095599700
BIC DEUTDEFFXXX

Kontakt

American Express Services Europe Limited
Zweigniederlassung Frankfurt am Main
Theodor-Heuss-Allee 112
60486 Frankfurt am Main
Telefon +49 (0)69 9797 1000
www.americanexpress.de

Bitte vermerken Sie Ihre Kartennummer auf allen
Überweisungen und Korrespondenzen an uns.

Exhibit B



Order Receipt - Order ID: 601305211014 - 05/21/2013 09:58 AM

Thank you for registering the Internet/World-Wide Web Domain(s) name shown below. NOTE: This payment is NON-REFUNDABLE.
IMPORTANT: Please note that your credit card statement will reflect a charge from IDOTZ.NET.

Billing Information

First name: Andre
Last name: Boeder
Organization: deltaventure GmbH
Address: Neuer Wall 50
City: Hamburg
State: -
Zip Code: 20354
Country: Germany
Email: ab@deltaventure.com
Phone: +4940609407420
Fax: +4940609407429

Registrant Information

First name: Andre
Last name: Boeder
Organization: deltaventure GmbH
Address: Neuer Wall 50
City: Hamburg
State: -
Zip Code: 20354
Country: Germany
Email: contact@deltaventure.com
Phone: +4940609407420
Fax: +4940609407429

Order Information

pay.io Domain renewal \$79.99 (1 year)

Payment Method: Credit Card **Order Total:** \$79.99

NOTE: This Invoice notice only indicates that your transaction request has been received. It does not suggest your order has been processed or accepted. We strongly suggest that you keep all iDotz.Net correspondence as it will carry relevant information throughout your history with us.

For all other billing inquiries refer to our [Support Helpdesk](#), or call +1.415.677.4027 from M-F 8:30-4:30 PST (15:30-23:30 UTC/GMT).

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Order Receipt - Order ID: 601404228549 - 04/22/2014 02:07 AM

Thank you for registering the Internet/World-Wide Web Domain(s) name shown below. NOTE: This payment is NON-REFUNDABLE.
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Billing Information

First name: Andre
Last name: Boeder
Organization: deltaventure GmbH
Address: Mergenthalerallee 10-12
City: Eschborn
State: -
Zip Code: 65760
Country: Germany
Email: contact@deltaventure.com
Phone: +49619620211310
Fax: +49619620211319

Registrant Information

First name: Andre
Last name: Boeder
Organization: deltaventure GmbH
Address: Neuer Wall 50
City: Hamburg
State: -
Zip Code: 20354
Country: Germany
Email: contact@deltaventure.com
Phone: +4940609407420
Fax: +4940609407429

Order Information

pay.io Domain renewal \$69.99 (1 year)

Payment Method: Credit Card **Order Total:** \$69.99

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Order Receipt - Order ID: 601504277599 - 04/27/2015 11:49 PM

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Billing Information

First name: Andre
Last name: Boeder
Organization: deltaventure GmbH
Address: Mergenthalerallee 10-12
City: Eschborn
State: -
Zip Code: 65760
Country: Germany
Email: contact@deltaventure.com
Phone: +49619620211310
Fax:

Registrant Information

First name: Andre
Last name: Boeder
Organization: deltaventure GmbH
Address: Neuer Wall 50
City: Hamburg
State: -
Zip Code: 20354
Country: Germany
Email: contact@deltaventure.com
Phone: +4940609407420
Fax: +4940609407429

Order Information

pay.io Domain renewal \$69.99 (1 year)

Payment Method: Credit Card **Order Total:** \$69.99

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Order Receipt - Order ID: 601604244817 - 04/24/2016 11:20 PM

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IMPORTANT: Please note that your credit card statement will reflect a charge from IDOTZ.NET.

Billing Information

First name: Andre
Last name: Boeder
Organization: deltaventure GmbH
Address: Mergenthalerallee 10-12
City: Eschborn
State: -
Zip Code: 65760
Country: Germany
Email: contact@deltaventure.com
Phone: +49619620211310
Fax: +49619620211319

Registrant Information

First name: Andre
Last name: Boeder
Organization: deltaventure GmbH
Address: Mergenthalerallee 10-12
City: Eschborn
State: -
Zip Code: 65760
Country: Germany
Email: contact@deltaventure.com
Phone: +49619620211310
Fax: +49619620211319

Order Information

pay.io Domain renewal \$299.99 (5 years)

Payment Method: Credit Card **Order Total:** \$299.99

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